

Kahler, Pam

From: Johnson, Kelly
Sent: Friday, October 30, 2009 10:37 AM
To: Kahler, Pam
Subject: FW: 09-3593P2Co-OpModernization 10282009 edition
Importance: High
Attachments: 09-3593P2Co-OpModernization 10282009 edition.doc

Pam Attached is the latest version of the co-op modernization changes. Let me know if you have any questions!
Kelly

From: John Manske [mailto:John.Manske@cooperativenetwork.coop]
Sent: Fri 10/30/2009 10:18 AM
To: Johnson, Kelly; Kostelic, Jeff
Cc: KOneil@ghcscw.com; Bill Oemichen
Subject: FW: 09-3593P2Co-OpModernization 10282009 edition

Hi Kelly & Jeff:

Attached is an updated draft with yellow highlighted imbedded responses from Group Health Cooperative of South Central WI. to LRB drafter Pamela Kahler's questions (see GHCSCW's Kathy O'Neil's note below too.) Please forward this to her so that she can finish off the drafting and we'll advance to bill circulation stage.

Thanks for all your work on this!

- John Manske

From: O'Neil, Kathy [mailto:KOneil@ghcscw.com]
Sent: Thursday, October 29, 2009 3:49 PM
To: John Manske; Bill Oemichen
Cc: Wearing, Allan; Pautz, Ned; Zaroni, Larry
Subject: 09-3593P2Co-OpModernization 10282009 edition
Importance: High

Hi John and Bill,

Thanks so much for this.

Attached you will find my notes and clarifications for Pamela. I have highlighted in yellow my comments and agreement with changes and verbiage. Please let me know if you have any questions or if you want to review them one by one I am ok with that. I can also fax the information if that is more helpful. In addition, you will note that in various areas I have changed "plan" to plan(s). This was a good suggestion from Ann Rieger - because we have many health care plans that we provide to members and perspective members.

Again, let me know your thoughts. It looks pretty darn good!!

Thanks,
Kathy

10/30/2009



State of Wisconsin
2009 – 2010 LEGISLATURE

LRB-3593/P2

PJK:nwn:ph

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 185.981 (4t), 185.981 (6) and 185.982 (3); and *to amend* 71.26
2 (1) (a), 71.45 (1) (a), 71.45 (5), 146.81 (1) (k), 146.997 (1) (d) 17., 155.01 (7),
3 185.09, 185.981 (title), 185.981 (1), 185.981 (2), 185.981 (3), 185.981 (4), 185.981
4 (5), 185.981 (7), 185.981 (8), 185.981 (9), 185.982 (1), 185.982 (2), 185.983 (1)
5 (intro.), 185.983 (1) (a), 185.983 (1m), 185.983 (2), 185.985, 252.14 (1) (ar) 12.,
6 254.11 (13), 632.86 (1) (a) and 655.002 (1) (f) of the statutes; **relating to:** health
7 care plans operated by cooperative associations.

Analysis by the Legislative Reference Bureau

Under current law, associations may be organized on a cooperative nonprofit basis (cooperative associations) to establish and operate sickness care plans for their members through contracts with providers. This bill makes various changes to those provisions, including the following:

1. The bill changes the name of the plans that cooperative associations may establish and operate from "sickness care plans" to "health care plans."
2. The bill specifies that establishing and maintaining these plans may be the primary, as opposed to exclusive, purpose of the cooperative association.
3. Current law provides that cooperative associations may enter into contracts for services with physicians and surgeons, optometrists, chiropractors, and dentists. The bill allows contracts with other providers, too.

4. The bill adds that nothing in the provisions pertaining to the purpose of the cooperative association as being primarily to establish and operate a health care plans precludes a cooperative association from owning an interest in other entities for improving member services or for investment.

5. Under current law, a cooperative association may not spend more than 5 percent of capital stock or membership fees on promotional expenses. The bill provides that this limit does not apply to a cooperative association operating a health care plan.

6. Current law prohibits a contract by or on behalf of a cooperative association from providing for the payment of cash or other material benefit to a subscriber or the subscriber's estate on account of death, illness, or injury. The bill eliminates this provision.

7. Under current law, a cooperative association may stipulate in its plan(s) that it will pay a nonparticipating physician and surgeon, optometrist, chiropractor, or dentist outside of the cooperative association's normal territory for care rendered to a member or a member's covered dependent who needs the care when he or she is outside the cooperative association's territory in which the plan benefits are normally available. Under the bill, a cooperative association may stipulate in its plan(s) that it will pay a nonparticipating physician and surgeon, optometrist, chiropractor, dentist, or other provider for health care rendered to a member or a member's covered dependent, without limitation to being outside the association's normal territory.

8. Current law provides that a cooperative association may provide benefits only to its members. The bill allows a cooperative association to offer its services to nonmembers, too.

9. Finally, the bill makes various technical changes, such as conforming the language to current statutory practice and eliminating redundant provisions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.26 (1) (a) of the statutes is amended to read:

71.26 (1) (a) *Certain corporations.* Income of corporations organized under ch. 185, except income of a cooperative ~~sickness~~ health care association organized under s. 185.981, or of a service insurance corporation organized under ch. 613, that is derived from a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which are bona fide cooperatives operated without pecuniary profit

1 to any shareholder or member, or operated on a cooperative plan pursuant to which
2 they determine and distribute their proceeds in substantial compliance with s.
3 185.45, and the income, except the unrelated business taxable income as defined in
4 section 512 of the internal revenue code and except income that is derived from a
5 health maintenance organization as defined in s. 609.01 (2) or a limited service
6 health organization as defined in s. 609.01 (3), of all religious, scientific, educational,
7 benevolent or other corporations or associations of individuals not organized or
8 conducted for pecuniary profit. This paragraph does not apply to the income of
9 savings banks, mutual loan corporations or savings and loan associations. This
10 paragraph does not apply to income that is realized from the sale of or purchase and
11 subsequent sale or redemption of lottery prizes if the winning tickets were originally
12 bought in this state. This paragraph applies to the income of credit unions except
13 to the income of any credit union that is derived from public deposits for any taxable
14 year in which the credit union is approved as a public depository under ch. 34 and
15 acts as a depository of state or local funds under s. 186.113 (20). For purposes of this
16 paragraph, the income of a credit union that is derived from public deposits is the
17 product of the credit union's gross annual income for the taxable year multiplied by
18 a fraction, the numerator of which is the average monthly balance of public deposits
19 in the credit union during the taxable year, and the denominator of which is the
20 average monthly balance of all deposits in the credit union during the taxable year.

21 **SECTION 2.** 71.45 (1) (a) of the statutes is amended to read:

22 71.45 (1) (a) Income of insurers exempt from federal income taxation pursuant
23 to section 501 (c) (15) of the internal revenue code, town mutuals organized under or
24 subject to ch. 612, foreign insurers, and domestic insurers engaged exclusively in life
25 insurance business, domestic insurers insuring against financial loss by reason of

1 nonpayment of principal, interest and other sums agreed to be paid under the terms
2 of any note or bond or other evidence of indebtedness secured by a mortgage, deed
3 of trust or other instrument constituting a lien or charge on real estate and
4 corporations organized under ch. 185, but not including income of cooperative
5 ~~sickness~~ health care associations organized under s. 185.981, or of a service-
6 insurance corporation organized under ch. 613, that is derived from a health
7 maintenance organization as defined in s. 609.01 (2) or a limited service health
8 organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which
9 are bona fide cooperatives operated without pecuniary profit to any shareholder or
10 member, or operated on a cooperative plan pursuant to which they determine and
11 distribute their proceeds in substantial compliance with s. 185.45. This paragraph
12 does not apply to income that is realized from the sale of or purchase and subsequent
13 sale or redemption of lottery prizes if the winning tickets were originally bought in
14 this state.

15 SECTION 3. 71.45 (5) of the statutes is amended to read:

16 71.45 (5) EXCEPTIONS. The net income of a cooperative ~~sickness~~ health care
17 association organized under s. 185.981, or of a service insurance corporation
18 organized under ch. 613, that is derived from a health maintenance organization, as
19 defined in s. 609.01 (2), or a limited service health organization, as defined in s.
20 609.01 (3), is the net income that would be determined if the cooperative ~~sickness~~
21 health care association or service insurance corporation were subject to federal
22 income taxation and as if that income were that of an insurance company.

23 SECTION 4. 146.81 (1) (k) of the statutes is amended to read:

1 146.81 (1) (k) An operational cooperative ~~sickness~~ health care plan organized
2 under ss. 185.981 to 185.985 that directly provides services through salaried
3 employees in its own facility.

****NOTE: Is "operational cooperative health care plan" okay in this provision, or should the reference instead be to a "cooperative health care association (rather than plan) organized under s. 185.981," as it is in s. 71.45 (5), for example, or to a "cooperative association (rather than plan) organized under s. 185.981 that operates a health care plan," or to a "cooperative health care association organized under ss. 185.981 to 185.985 that operates a nonprofit health care plan," as in s. 655.002 (1) (f)? I think the entity, rather than the plan is being referred to, since it has its own "facility."

X Yes, Change to "cooperative health care association".

4 SECTION 5. 146.997 (1) (d) 17. of the statutes is amended to read:

5 146.997 (1) (d) 17. An operational cooperative ~~sickness~~ health care plan
6 organized under ss. 185.981 to 185.985 that directly provides services through
7 salaried employees in its own facility.

****NOTE: Is "operational cooperative health care plan" okay in this provision, or should the reference instead be to a "cooperative health care association (rather than plan) organized under s. 185.981," as it is in s. 71.45 (5), for example, or to a "cooperative association (rather than plan) organized under s. 185.981 that operates a health care plan," or to a "cooperative health care association organized under ss. 185.981 to 185.985 that operates a nonprofit health care plan," as in s. 655.002 (1) (f)? I think the entity, rather than the plan is being referred to, since it has its own "facility."

X Yes, Change to "cooperative health care association".

8 SECTION 6. 155.01 (7) of the statutes is amended to read:

9 155.01 (7) "Health care provider" means a nurse licensed or permitted under
10 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
11 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical
12 therapist assistant, occupational therapist, or occupational therapy assistant
13 licensed under ch. 448, a person practicing Christian Science treatment, an
14 optometrist licensed under ch. 449, a psychologist licensed under ch. 455, a
15 partnership thereof, a corporation or limited liability company thereof that provides
16 health care services, an operational cooperative ~~sickness~~ health care plan organized

17 under ss. 185.981 to 185.985 that directly provides services through salaried
18 employees in its own facility, or a home health agency, as defined in s. 50.49 (1) (a).

19 2009 – 2010 Legislature

- 6 -

LRB-3593/P2
PJK:nwn:ph
SECTION 6

****NOTE: Is "operational cooperative health care plan" okay in this provision, or should the reference instead be to a "cooperative health care association (rather than plan) organized under s. 185.981," as it is in s. 71.45 (5), for example, or to a "cooperative association (rather than plan) organized under s. 185.981 that operates a health care plan," or to a "cooperative health care association organized under ss. 185.981 to 185.985 that operates a nonprofit health care plan," as in s. 655.002 (1) (f)? I think the entity, rather than the plan is being referred to, since it has its own "facility."

X Yes. Change to "cooperative health care association" Thank you.

1 SECTION 7. 185.09 of the statutes is amended to read:

2 **185.09 Promotion expense; limitation.** No cooperative funds may be used,
3 nor any stock issued, in payment of any promotion expenses in excess of 5 per cent
4 of the paid-up capital stock or membership fees. This section does not apply to a
5 cooperative association organized under s. 185.981.

6 SECTION 8. 185.981 (title) of the statutes is amended to read:

7 **185.981 (title) Cooperative ~~sickness~~ health care.**

8 SECTION 9. 185.981 (1) of the statutes is amended to read:

9 185.981 (1) Cooperative associations may be organized under this chapter
10 without capital stock, ~~exclusively~~ primarily to establish and operate in the state or
11 in any county or counties ~~therein~~ in the state nonprofit ~~plan or plans or programs~~
12 for ~~sickness~~ health care, including hospital care, for their members and, their
13 members' dependents, and others through contracts with physicians, medical
14 societies, chiropractors, optometrists, dentists, dental societies, hospitals, and
15 others.

16 SECTION 10. 185.981 (2) of the statutes is amended to read:

17 185.981 (2) ~~Such associations~~ A cooperative association organized under this
18 section shall operate only on a cooperative nonprofit basis and for the primary

19 purpose of establishing, maintaining, and operating a voluntary nonprofit health,
20 dental, or vision care plan or plans, or additional services or programs, or for
constructing, operating, and
maintaining nonprofit hospitals
or other facilities 2009 – 2010
Legislature


LRB-3593/P2

- 7 -

PJK:nwn:ph
SECTION 10

1 whereby ~~sickness~~ health care, including hospital, dental, or vision care, is provided
2 ~~at the expense of such association, to its members or both, and to such other persons-~~
3 ~~or groups of persons as shall~~ who become subscribers to ~~such~~ the plan(s), subject to s.
4 185.982 (2), under contracts which will entitle each such subscriber to definite that
5 provide access to medical, surgical, chiropractic, vision, dental, or hospital care,
6 other health care services, appliances, and supplies, by physicians and surgeons
7 licensed and registered under ch. 448, optometrists licensed under ch. 449,
8 chiropractors licensed under ch. 446 and, dentists licensed under ch. 447, and other
9 health care providers in their offices, in hospitals, in other facilities, and in the home.
10 Nothing in this subsection precludes a cooperative association organized under this
11 section from owning an interest in other entities for enhancing or improving member
12 services or for investment or other purposes, as long as the association's primary
13 purpose remains as provided in this subsection.

****NOTE: I have added "or additional services or programs," as you requested, but I'm not sure it makes sense. Where located in the sentence and as worded, it would mean that a primary purpose of a cooperative association would be to establish, maintain, and operate additional services or programs. It makes sense with "programs," but not especially with "services."

 Yes, you are right. It should be "programs" not; "or additional services or programs". Sorry for the confusion. Thank you.

****NOTE: I did not add "or other health care services" after "health care," as you suggested, because I think "health care" already covers "other health care services." I did, however, add "and other health care providers" after the reference to "dentists licensed under ch. 447," because I think the constellation of providers includes more than physicians, optometrists, chiropractors, and dentists.

Yes. This is a good ("and other health care providers"). It should be "and other health care providers". Thank you.

14 SECTION 11. 185.981 (3) of the statutes is amended to read:

15 185.981 (3) No cooperative association organized primarily for the purposes
16 provided in ss. 185.981 to 185.983 shall be prevented from contracting with any
17 hospital in this state for the rendition of such hospital care as is included within ~~such~~
18 ~~a the cooperative association's plan(s)~~ because ~~such the~~ hospital participates in any-
19 other ~~such~~ cooperative association's plan(s), or in a plan(s) organized and operated under
20 ss. 148.03 and 613.80. No hospital may discriminate against any physician and

2009 - 2010 Legislature

- 8 -

LRB-3593/P2

PJK:nwn:ph

SECTION 11

1 surgeon, chiropractor, or dentist with respect to the use of ~~such~~ the hospital's
2 facilities by reason of his or her participation in a ~~sickness~~ health care plan(s) of a
3 cooperative.

****NOTE: Do you want to add "or other health care provider" after "dentist," or do you want this antidiscrimination provision to apply only to physicians, chiropractors, and dentists?


You may leave as it is written. Make no changes. Thank you.

4 SECTION 12. 185.981 (4) of the statutes is amended to read:

5 185.981 (4) ~~No contract by or on behalf of any such~~ A cooperative association
6 ~~shall provide for the payment of any cash, indemnity or other material benefit by that~~
7 ~~association to the subscriber or the subscriber's estate on account of death, illness or~~
8 ~~injury, nor be in any way related to the payment of any such benefit by any other~~
9 ~~agency, but any such association may stipulate in its~~ plan(s) that it will pay any-
10 nonparticipating physician and surgeon, optometrist, chiropractor, dentist ~~or,~~
11 hospital ~~outside of its normal territory for sickness or,~~ or other provider for hospital
12 or other health care rendered to any covered member or a member's covered
13 dependent who is in need of the benefits of such the plan(s) when he or she is outside
14 ~~of the territory of such association in which the benefits of such plan are normally~~

15 available. ~~Any such.~~ The plan(s) may prescribe monetary limitations with respect to-
16 ~~such extraterritorial the~~ benefits.-

****NOTE: Do you want this limited to members and their dependents, or should it include subscribers to the plan, also? See s. 185.981 (2).

 I see your point. Let's change the words "member or member's covered dependent" to "person". So the verbiage should read: *...or other provider for hospital or other health care rendered to any covered person who is in need of the benefits of the plan(s). The plan(s) may prescribe monetary limitations with respect to the benefits.* ... Thank you.

17 SECTION 13. 185.981 (4t) of the statutes, as affected by 2009 Wisconsin Act 28,
18 is repealed.

19 SECTION 14. 185.981 (5) of the statutes is amended to read:

20 185.981 (5) Every ~~such~~ cooperative association organized under this section is
21 a charitable and benevolent corporation.

22 SECTION 15. 185.981 (6) of the statutes is repealed.

1 SECTION 16. 185.981 (7) of the statutes is amended to read:

2 185.981 (7) Notwithstanding sub. (4) and ~~s. ss.~~ 185.982 (1) and 185.983 (1), a
3 ~~sickness~~ health-care plan(s) that is operated by a cooperative association and that
4 qualifies as a health maintenance organization, as defined in s. 609.01 (2), is subject
5 to s. 609.655.

6 SECTION 17. 185.981 (8) of the statutes is amended to read:

7 185.981 (8) ~~A sickness care plan operated by a cooperative association is~~
8 ~~subject to s. 632.895 (8). Coverage by a health care plan operated by a cooperative~~
9 ~~association that qualifies as a health maintenance organization, as defined in s.~~
10 ~~609.01 (2), of mammograms under s. 632.895 (8) may be subject to any requirements~~
11 ~~that the sickness health care plan imposes under s. 609.05 (2) and (3) on the coverage~~
12 ~~of other health care services obtained by members and their dependents.~~

13 SECTION 18. 185.981 (9) of the statutes is amended to read:

14 185.981 (9) ~~Every cooperative sickness care association organized under this~~
15 ~~section that provides coverage for dependent children of members shall provide~~
16 ~~coverage for adopted children and children placed for adoption, as required under s.~~
17 ~~632.896. Coverage by a health care plan operated by a cooperative association that~~
18 ~~qualifies as a health maintenance organization, as defined in s. 609.01 (2), of health~~
19 ~~care services obtained by adopted children and children placed for adoption may be~~
20 ~~subject to any requirements that the sickness health care plan imposes under s.~~
21 ~~609.05 (2) and (3) on the coverage of health care services obtained by other members~~
22 ~~and their dependents.~~

23 SECTION 19. 185.982 (1) of the statutes is amended to read:

24 185.982 (1) No ~~sickness~~ health care plan or contract issued ~~thereunder~~ by ~~such~~
25 a cooperative association shall interfere with the manner or mode of the practice of

1 medicine, optometry, chiropractic, or dentistry, the manner or mode of providing
2 wellness or other services, the relationship of physician, chiropractor, optometrist or,
3 dentist, or other provider and patient, nor the responsibility of physician,
4 chiropractor, optometrist or, dentist, or other provider to patient. A plan(s) may require
5 persons covered to utilize health care providers designated by the cooperative
6 association. The cooperative association may provide health care services directly
7 through providers who are employees of the cooperative association or through
8 agreements with individual providers or groups of providers organized on a group
9 practice or individual practice basis. ~~In making such agreements, no plan may refuse~~
10 ~~to provide coverage for vision care services or procedures provided by an optometrist~~
11 ~~licensed under ch. 449 within the scope of the practice of optometry, as defined in s.~~
12 ~~449.01 (1), if the plan provides coverage for the same services or procedures when~~
13 ~~provided by another health care provider.~~

14 SECTION 20. 185.982 (2) of the statutes is amended to read:

15 185.982 (2) Any cooperative association operating a voluntary ~~sickness~~ health
16 care plan(s) under the provisions of this chapter may pay physicians and surgeons,
17 optometrists, chiropractors ~~or~~, dentists, or other providers on a salary, per person, or
18 fee-for-service basis to provide ~~sickness~~ health care to members of ~~such~~ the
19 association. Every cooperative association ~~shall contract only with its own members~~
20 ~~for the benefits of any plan which it operates, but any~~ may offer its health care
21 services to nonmembers. Any cooperative association which that operates a hospital
22 may make the hospital's facilities ~~thereof~~ available to nonmembers and to
23 nonparticipating physicians, optometrists, or dentists.

****NOTE: Do you want to add "or other health care providers" after "dentists"? It's interesting
that use of hospital facilities in s. 185.981 (3) must be made available to

physicians, *chiropractors*, and dentists, but in s. 185.982 (2) they must be made available to nonparticipating physicians, *optometrists*, and dentists.

Yes, the addition of other health care providers is appropriate. Thank you.

1 SECTION 21. 185.982 (3) of the statutes is repealed.

2 SECTION 22. 185.983 (1) (intro.) of the statutes, as affected by 2009 Wisconsin

3 Act 28, is amended to read:

4 185.983 (1) (intro.) Every ~~such~~ voluntary nonprofit ~~sickness~~ health care plan(s)
5 operated by a cooperative association organized under s. 185.981 shall be exempt
6 from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42,
7 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93, 631.95,
8 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853, 632.855,
9 632.87 (2), (2m), (3), (4), (5), and (6), 632.885, 632.895 (5) and ~~(9)~~ (8) to (17), 632.896,
10 and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
11 shall:

12 SECTION 23. 185.983 (1) (a) of the statutes is amended to read:

13 185.983 (1) (a) File with the commissioner of insurance a declaration defining
14 the organization and operation of the plan, all printed literature, and specimen
15 copies of all proposed contracts of insurance with persons covered and with
16 participating physicians and hospitals, including all amendments thereto. The form
17 of all such contracts and amendments shall be subject to approval by the
18 commissioner of insurance but the commissioner may not withhold approval if the
19 form of ~~such~~ the contracts or changes ~~therein~~ in the contracts comply with the
20 provisions of ss. 185.981 to 185.985.

****NOTE: Should "participating physicians and hospitals" be changed to "participating physicians and other health care providers and hospitals" or "participating health care providers and hospitals" or is the limitation to physicians okay? Yes, the addition is appropriate. Thank you.


21

SECTION 24. 185.983 (1m) of the statutes is amended to read:
2009 – 2010 Legislature

(12)

LRB-3593/P2
PJK:nwn:ph
SECTION 24

1 185.983 (1m) In addition to ss. 601.04, 601.31, 632.79, and 632.895 (5), the
2 commissioner of insurance may by rule subject a medicare supplement policy, as
3 defined in s. 600.03 (28r), a medicare replacement policy, as defined in s. 600.03 (28p),
4 or a long-term care insurance policy, as defined in s. 600.03 (28g), that is sold by a
5 voluntary nonprofit ~~sickness~~ health care plan to other provisions of chs. 600 to 646,
6 except that the commissioner may not subject a medicare supplement policy, a
7 medicare replacement policy, or a long-term care insurance policy to s. 632.895 (8).

 *****NOTE: Should the reference to "voluntary nonprofit health care plan" instead be to
"cooperative association organized under s. 185.981"? I don't think the plan does the selling.
Yes, please use "cooperative association organized under s. 185.981" is appropriate. Thank you.

8 SECTION 25. 185.983 (2) of the statutes is amended to read:

9 185.983 (2) Every ~~such~~ voluntary nonprofit health care plan(s) operated by a
10 cooperative association organized under s. 185.981 shall make provision for a
11 minimum of one physician and surgeon, or dentist to each 2,000 persons covered for
12 medical or dental care and a minimum of 6 hospital beds for each 2,000 persons
13 covered for hospital care.

14 SECTION 26. 185.985 of the statutes is amended to read:

15 **185.985 Inconsistent provisions of the statutes.** ~~Sickness~~ Health care or
16 hospital plans operated by cooperative associations organized under this chapter
17 shall be operated exclusively under the provisions of ss. 185.981 to 185.985. Other
18 provisions of the statutes that are inconsistent with any of ~~such~~ those provisions
19 shall not be applicable to cooperative associations or ~~sickness~~ health care plans
20 operated by cooperative associations ~~pursuant to~~ under this chapter.

21 SECTION 27. 252.14 (1) (ar) 12. of the statutes is amended to read:

1 252.14 (1) (ar) 12. An operational cooperative ~~sickness~~ health care plan
2 organized under ss. 185.981 to 185.985 that directly provides services through
3 salaried employees in its own facility.

****NOTE: Is "operational cooperative health care plan" okay in this provision, or should the reference instead be to a "cooperative health care association (rather than plan) organized under s. 185.981," as it is in s. 71.45 (5), for example, or to a "cooperative association (rather than plan) organized under s. 185.981 that operates a health care plan," or to a "cooperative health care association organized under ss. 185.981 to 185.985 that operates a nonprofit health care plan," as in s. 655.002 (1) (f)? I think the entity, rather than the plan is being referred to, since it has its own "facility." Yes. Please use "cooperative health care association". Thank you.

4 SECTION 28. 254.11 (13) of the statutes is amended to read:

5 254.11 (13) "Third-party payer" means a disability insurance policy that is
6 required to provide coverage for a blood lead test under s. 632.895 (10) (a); a health
7 maintenance organization or preferred provider plan under ch. 609; a health care
8 coverage plan offered by the state under s. 40.51 (6); a self-insured health plan
9 offered by a city or village under s. 66.0137 (4), a political subdivision under s.
10 66.0137 (4m), a town under s. 60.23 (25), a county under s. 59.52 (11) (c), or a school
11 district under s. 120.13 (2) (b); or a ~~sickness~~ health care plan operated by a
12 cooperative association under s. 185.981.

13 SECTION 29. 632.86 (1) (a) of the statutes is amended to read:

14 632.86 (1) (a) "Disability insurance policy" has the meaning given in s. 632.895
15 (1) (a), except that the term does not include coverage under a health maintenance
16 organization, as defined in s. 609.01 (2), a limited service health organization, as
17 defined in s. 609.01 (3), a preferred provider plan, as defined in s. 609.01 (4), or a
18 ~~sickness~~ health-care plan operated by a cooperative association organized under ss.-
19 185.981 to 185.985.

20 SECTION 30. 655.002 (1) (f) of the statutes is amended to read:

655.002 (1) (f) A cooperative ~~sickness~~ health care association organized under ss. 185.981 to 185.985 that operates a nonprofit ~~sickness~~ health care plan(s) in this state and that directly provides services through salaried employees in its own facility.

SECTION 31. Effective date.

(1) This act takes effect on January 1, 2010, or on the day after publication, whichever is later.

(END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3593/12

PJK:nwn:ph

V m is new

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SA ✓

D-note
(in 11-3)

Regen.

1 AN ACT *to repeal* 185.981 (4t), 185.981 (6) and 185.982 (3); and *to amend* 71.26
2 (1) (a), 71.45 (1) (a), 71.45 (5), 146.81 (1) (k), 146.997 (1) (d) 17., 155.01 (7),
3 185.09, 185.981 (title), 185.981 (1), 185.981 (2), 185.981 (3), 185.981 (4), 185.981
4 (5), 185.981 (7), 185.981 (8), 185.981 (9), 185.982 (1), 185.982 (2), 185.983 (1)
5 (intro.), 185.983 (1) (a), 185.983 (1m), 185.983 (2), 185.985, 252.14 (1) (ar) 12.,
6 254.11 (13), 632.86 (1) (a) and 655.002 (1) (f) of the statutes; **relating to:** health
7 care plans operated by cooperative associations.✓

Analysis by the Legislative Reference Bureau

Under current law, associations may be organized on a cooperative nonprofit basis (cooperative associations) to establish and operate sickness care plans for their members through contracts with providers. This bill makes various changes to those provisions, including the following:

1. The bill changes the name of the plans that cooperative associations may establish and operate from "sickness care plans" to "health care plans."
2. The bill specifies that establishing and maintaining these plans may be the primary, as opposed to exclusive, purpose of the cooperative association.
3. Current law provides that cooperative associations may enter into contracts for services with physicians and surgeons, optometrists, chiropractors, and dentists. The bill allows contracts with other providers, too.

4. The bill adds that nothing in the provisions pertaining to the purpose of the cooperative association as being primarily to establish and operate a health care plan precludes a cooperative association from owning an interest in other entities for improving member services or for investment.

5. Under current law, a cooperative association may not spend more than 5 percent of capital stock or membership fees on promotional expenses. The bill provides that this limit does not apply to a cooperative association operating a health care plan.

6. Current law prohibits a contract by or on behalf of a cooperative association from providing for the payment of cash or other material benefit to a subscriber or the subscriber's estate on account of death, illness, or injury. The bill eliminates this provision.

7. Under current law, a cooperative association may stipulate in its plan that it will pay a nonparticipating physician and surgeon, optometrist, chiropractor, or dentist outside of the cooperative association's normal territory for care rendered to a member or a member's covered dependent who needs the care when he or she is outside the cooperative association's territory in which the plan benefits are normally available. Under the bill, a cooperative association may stipulate in its plan that it will pay a nonparticipating physician and surgeon, optometrist, chiropractor, dentist, or other provider for health care rendered to a member or a member's covered dependent, without limitation to being outside the association's normal territory.

8. Current law provides that a cooperative association may provide benefits only to its members. The bill allows a cooperative association to offer its services to nonmembers, too.

9. Finally, the bill makes various technical changes, such as conforming the language to current statutory practice and eliminating redundant provisions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.26 (1) (a) of the statutes is amended to read:

71.26 (1) (a) *Certain corporations.* Income of corporations organized under ch. 185, except income of a cooperative ~~sickness~~ health care association organized under s. 185.981, or of a service insurance corporation organized under ch. 613, that is derived from a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which are bona fide cooperatives operated without pecuniary profit

1 to any shareholder or member, or operated on a cooperative plan pursuant to which
2 they determine and distribute their proceeds in substantial compliance with s.
3 185.45, and the income, except the unrelated business taxable income as defined in
4 section 512 of the internal revenue code and except income that is derived from a
5 health maintenance organization as defined in s. 609.01 (2) or a limited service
6 health organization as defined in s. 609.01 (3), of all religious, scientific, educational,
7 benevolent or other corporations or associations of individuals not organized or
8 conducted for pecuniary profit. This paragraph does not apply to the income of
9 savings banks, mutual loan corporations or savings and loan associations. This
10 paragraph does not apply to income that is realized from the sale of or purchase and
11 subsequent sale or redemption of lottery prizes if the winning tickets were originally
12 bought in this state. This paragraph applies to the income of credit unions except
13 to the income of any credit union that is derived from public deposits for any taxable
14 year in which the credit union is approved as a public depository under ch. 34 and
15 acts as a depository of state or local funds under s. 186.113 (20). For purposes of this
16 paragraph, the income of a credit union that is derived from public deposits is the
17 product of the credit union's gross annual income for the taxable year multiplied by
18 a fraction, the numerator of which is the average monthly balance of public deposits
19 in the credit union during the taxable year, and the denominator of which is the
20 average monthly balance of all deposits in the credit union during the taxable year.

21 **SECTION 2.** 71.45 (1) (a) of the statutes is amended to read:

22 71.45 (1) (a) Income of insurers exempt from federal income taxation pursuant
23 to section 501 (c) (15) of the internal revenue code, town mutuals organized under or
24 subject to ch. 612, foreign insurers, and domestic insurers engaged exclusively in life
25 insurance business, domestic insurers insuring against financial loss by reason of

1 nonpayment of principal, interest and other sums agreed to be paid under the terms
2 of any note or bond or other evidence of indebtedness secured by a mortgage, deed
3 of trust or other instrument constituting a lien or charge on real estate and
4 corporations organized under ch. 185, but not including income of cooperative
5 ~~sickness~~ health care associations organized under s. 185.981, or of a service
6 insurance corporation organized under ch. 613, that is derived from a health
7 maintenance organization as defined in s. 609.01 (2) or a limited service health
8 organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which
9 are bona fide cooperatives operated without pecuniary profit to any shareholder or
10 member, or operated on a cooperative plan pursuant to which they determine and
11 distribute their proceeds in substantial compliance with s. 185.45. This paragraph
12 does not apply to income that is realized from the sale of or purchase and subsequent
13 sale or redemption of lottery prizes if the winning tickets were originally bought in
14 this state.

15 **SECTION 3.** 71.45 (5) of the statutes is amended to read:

16 71.45 (5) EXCEPTIONS. The net income of a cooperative ~~sickness~~ health care
17 association organized under s. 185.981, or of a service insurance corporation
18 organized under ch. 613, that is derived from a health maintenance organization, as
19 defined in s. 609.01 (2), or a limited service health organization, as defined in s.
20 609.01 (3), is the net income that would be determined if the cooperative ~~sickness~~
21 health care association or service insurance corporation were subject to federal
22 income taxation and as if that income were that of an insurance company.

23 **SECTION 4.** 146.81 (1) (k) of the statutes is amended to read:

association

1 146.81 (1) (k) ~~An operational~~ cooperative sickness health care ~~plan~~ organized
 2 under ~~ss. 185.981 to 185.985~~ that directly provides services through salaried
 3 employees in its own facility. ✓

****NOTE: Is "operational cooperative health care plan" okay in this provision, or should the reference instead be to a "cooperative health care association (rather than plan) organized under s. 185.981," as it is in s. 71.45 (5), for example, or to a "cooperative association (rather than plan) organized under s. 185.981 that operates a health care plan," or to a "cooperative health care association organized under ss. 185.981 to 185.985 that operates a nonprofit health care plan," as in s. 655.002 (1) (f)? I think the entity, rather than the plan is being referred to, since it has its own "facility."

4 **SECTION 5.** 146.997 (1) (d) 17. of the statutes is amended to read:

5 146.997 (1) (d) 17. ~~An operational~~ cooperative sickness health care ~~plan~~
 6 organized under ~~ss. 185.981 to 185.985~~ that directly provides services through
 7 salaried employees in its own facility. ✓

****NOTE: Is "operational cooperative health care plan" okay in this provision, or should the reference instead be to a "cooperative health care association (rather than plan) organized under s. 185.981," as it is in s. 71.45 (5), for example, or to a "cooperative association (rather than plan) organized under s. 185.981 that operates a health care plan," or to a "cooperative health care association organized under ss. 185.981 to 185.985 that operates a nonprofit health care plan," as in s. 655.002 (1) (f)? I think the entity, rather than the plan is being referred to, since it has its own "facility."

8 **SECTION 6.** 155.01 (7) of the statutes is amended to read:

9 155.01 (7) "Health care provider" means a nurse licensed or permitted under
 10 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
 11 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical
 12 therapist assistant, occupational therapist, or occupational therapy assistant
 13 licensed under ch. 448, a person practicing Christian Science treatment, an
 14 optometrist licensed under ch. 449, a psychologist licensed under ch. 455, a
 15 partnership thereof, a corporation or limited liability company thereof that provides
 16 health care services, ~~an operational~~ cooperative sickness health care ~~plan~~ organized
 17 under ~~ss. 185.981 to 185.985~~ that directly provides services through salaried
 18 employees in its own facility, or a home health agency, as defined in s. 50.49 (1) (a). ✓

****NOTE: Is "operational cooperative health care plan" okay in this provision, or should the reference instead be to a "cooperative health care association (rather than plan) organized under s. 185.981," as it is in s. 71.45 (5), for example, or to a "cooperative association (rather than plan) organized under s. 185.981 that operates a health care plan," or to a "cooperative health care association organized under ss. 185.981 to 185.985 that operates a nonprofit health care plan," as in s. 655.002 (1) (f)? I think the entity, rather than the plan is being referred to, since it has its own "facility."

SECTION 7. 185.09 of the statutes is amended to read:

185.09 Promotion expense; limitation. No cooperative funds may be used, nor any stock issued, in payment of any promotion expenses in excess of 5 per cent of the paid-up capital stock or membership fees. This section does not apply to a cooperative association organized under s. 185.981.

SECTION 8. 185.981 (title) of the statutes is amended to read:

185.981 (title) Cooperative sickness health care.

SECTION 9. 185.981 (1) of the statutes is amended to read:

185.981 (1) Cooperative associations may be organized under this chapter without capital stock, ~~exclusively~~ primarily to establish and operate in the state or in any county or counties ~~therein a~~ in the state nonprofit ~~plan or plans or programs~~ for ~~sickness~~ health care, including hospital care, for their members ~~and, their~~ members' dependents, ~~and others~~ through contracts with physicians, medical societies, chiropractors, optometrists, dentists, dental societies, hospitals, and others.

SECTION 10. 185.981 (2) of the statutes is amended to read:

185.981 (2) ~~Such associations~~ A cooperative association organized under this section shall operate only on a cooperative nonprofit basis and for the primary purpose of establishing, maintaining, and operating a voluntary nonprofit health, dental, or vision care plan or plans, or additional services or programs, or for constructing, operating, and maintaining nonprofit hospitals or other facilities

as affected by 2009 Wisconsin Act ... (Assembly Bill 273)

podiatrists

whereby ~~sickness~~ health care, including hospital, dental, or vision care, is provided at the expense of such association, to its members or both, and to such other persons or groups of persons as shall who become subscribers to such the plan, ^{the plans} subject to s. 185.982 (2), under contracts which will entitle each such subscriber to definite that provide access to medical, surgical, chiropractic, vision, dental, or hospital care, other health care services, appliances, and supplies, by physicians and surgeons licensed and registered under ch. 448, ^{podiatrists licensed under ch. 448} optometrists licensed under ch. 449, chiropractors licensed under ch. 446 and, dentists licensed under ch. 447, and other health care providers in their offices, in hospitals, in other facilities, and in the home. Nothing in this subsection precludes a cooperative association organized under this section from owning an interest in other entities for enhancing or improving member services or for investment or other purposes, as long as the association's primary purpose remains as provided in this subsection.

****NOTE: I have added "or additional services or programs," as you requested, but I'm not sure it makes sense. Where located in the sentence and as worded, it would mean that a primary purpose of a cooperative association would be to establish, maintain, and operate additional services or programs. It makes sense with "programs," but not especially with "services."

****NOTE: I did not add "or other health care services" after "health care," as you suggested, because I think "health care" already covers "other health care services." I did, however, add "and other health care providers" after the reference to "dentists licensed under ch. 447," because I think the constellation of providers includes more than physicians, optometrists, chiropractors, and dentists.

SECTION 11. 185.981 (3) of the statutes is amended to read:

185.981 (3) No cooperative association organized primarily for the purposes provided in ss. 185.981 to 185.983 shall be prevented from contracting with any hospital in this state for the rendition of such hospital care as is included within such a the cooperative association's plan, ^{plans} because such the hospital participates in any other such cooperative association's plan, or in a plan organized and operated under ss. 148.03 and 613.80. No hospital may discriminate against any physician and

as affected by 2009 Wisconsin Act... (Assembly Bill 273)

a plan of

surgeon, chiropractor, ^{plain} ~~or~~ ^g dentist ^{for podiatrist} with respect to the use of such ~~the~~ hospital's facilities by reason of his or her participation in a sickness health care plan of a cooperative. ✓

****NOTE: Do you want to add "or other health care provider" after "dentist," or do you want this antidiscrimination provision to apply only to physicians, chiropractors, and dentists?

SECTION 12. 185.981 (4) of the statutes is amended to read:

185.981 (4) ~~No contract by or on behalf of any such~~ A cooperative association shall provide for the payment of any cash, indemnity or other material benefit by that association to the subscriber or the subscriber's estate on account of death, illness or injury, nor be in any way related to the payment of any such benefit by any other agency, but any such association may stipulate in its ~~plan~~ ^{plans} that it will pay any nonparticipating physician and surgeon, optometrist, chiropractor, dentist ~~or~~ ^{podiatrist} hospital ~~outside of its normal territory for sickness or, or other provider for hospital~~ ^{strikes} or other health care rendered to any covered ~~member or a member's covered~~ ^{person} ~~dependent~~ ^{a plan's} who is in need of the benefits of such ~~the plan~~ ^e when he or she is outside of the territory of such association in which the benefits of such plan are normally available. Any such. ~~The plan~~ ^{plans} may prescribe monetary limitations with respect to such ~~extraterritorial~~ the benefits. ✓

****NOTE: Do you want this limited to members and their dependents, or should it include subscribers to the plan, also? See s. 185.981 (2).

SECTION 13. 185.981 (4t) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 14. 185.981 (5) of the statutes is amended to read:

185.981 (5) Every such cooperative association organized under this section is a charitable and benevolent corporation.

SECTION 15. 185.981 (6) of the statutes is repealed.

as affected by 2009 Wisconsin Act 28, Assembly Bill 273

1 **SECTION 16.** 185.981 (7) of the statutes is amended to read:

2 185.981 (7) Notwithstanding sub. (4) and ~~s. ss.~~ 185.982 (1) and 185.983 (1), a
3 ~~sickness~~ health care plan that is operated by a cooperative association and that
4 qualifies as a health maintenance organization, as defined in s. 609.01 (2), is subject
5 to s. 609.655.✓

6 **SECTION 17.** 185.981 (8) of the statutes is amended to read:

7 185.981 (8) ~~A sickness care plan operated by a cooperative association is~~
8 ~~subject to s. 632.895 (8).~~ Coverage by a health care plan operated by a cooperative
9 association that qualifies as a health maintenance organization, as defined in s.
10 609.01 (2), of mammograms under s. 632.895 (8) may be subject to any requirements
11 that the ~~sickness~~ health care plan imposes under s. 609.05 (2) and (3) on the coverage
12 of other health care services obtained by members and their dependents.✓

13 **SECTION 18.** 185.981 (9) of the statutes is amended to read:

14 185.981 (9) ~~Every cooperative sickness care association organized under this~~
15 ~~section that provides coverage for dependent children of members shall provide~~
16 ~~coverage for adopted children and children placed for adoption, as required under s.~~
17 ~~632.896.~~ Coverage by a health care plan operated by a cooperative association that
18 qualifies as a health maintenance organization, as defined in s. 609.01 (2), of health
19 care services obtained by adopted children and children placed for adoption may be
20 subject to any requirements that the ~~sickness~~ health care plan imposes under s.
21 609.05 (2) and (3) on the coverage of health care services obtained by other members
22 and their dependents.✓

23 **SECTION 19.** 185.982 (1) of the statutes is amended to read:

24 185.982 (1) No ~~sickness~~ health care plan or contract issued thereunder by such
25 a cooperative association shall interfere with the manner or mode of the practice of

as affected by 2009 Wisconsin Act (Assembly Bill 273)

1 medicine, optometry, chiropractic, ^{plan} or ^{or podiatry} dentistry, ^{or} the manner or mode of providing
 2 wellness or other services, the relationship of physician, chiropractor, optometrist ^{or}
 3 dentist, ^{or} other provider and patient, nor the responsibility of physician,
 4 chiropractor, optometrist, ^{plain comma} dentist, ^{Plans} or other provider to patient. A plan may require
 5 persons covered to utilize health care providers designated by the cooperative
 6 association. The cooperative association may provide health care services directly
 7 through providers who are employees of the cooperative association or through
 8 agreements with individual providers or groups of providers organized on a group
 9 practice or individual practice basis. In making such agreements, no plan may refuse
 10 to provide coverage for vision care services or procedures provided by an optometrist
 11 licensed under ch. 449 within the scope of the practice of optometry, as defined in s.
 12 449.01 (1), if the plan provides coverage for the same services or procedures when
 13 provided by another health care provider. ✓

14 SECTION 20. 185.982 (2) of the statutes is amended to read:

15 185.982 (2) Any cooperative association operating a voluntary sickness health
 16 care ^{plans} ~~plan~~ under the provisions of this chapter may pay physicians and surgeons,
 17 optometrists, chiropractors ~~or~~, dentists, or other providers on a salary, per person, or
 18 fee-for-service basis to provide sickness health care to members of such the
 19 association. Every cooperative association ~~shall contract only with its own members~~
 20 ~~for the benefits of any plan which it operates, but any may offer its health care~~
 21 services to nonmembers. Any cooperative association ~~which that~~ operates a hospital
 22 may make the hospital's facilities ~~thereof~~ available to nonmembers and to
 23 nonparticipating physicians, optometrists, ^{or} dentists, ^{or other providers}

***NOTE: Do you want to add "or other health care providers" after "dentists"? It's
 interesting that use of hospital facilities in s. 185.981 (3) must be made available to

physicians, *chiropractors*, and dentists, but in s. 185.982 (2) they must be made available to nonparticipating physicians, *optometrists*, and dentists.

1 **SECTION 21.** 185.982 (3) of the statutes is repealed.

2 **SECTION 22.** 185.983 (1) (intro.) of the statutes, as affected by 2009 Wisconsin
3 Act 28, is amended to read:

4 185.983 (1) (intro.) Every ~~such~~ voluntary nonprofit ~~sickness~~ health care plan
5 operated by a cooperative association organized under s. 185.981 shall be exempt
6 from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42,
7 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93, 631.95,
8 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853, 632.855,
9 632.87 (2), (2m), (3), (4), (5), and (6), 632.885, 632.895 (5) and ~~(9)~~ (8) to (17), 632.896,
10 and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
11 shall: ✓

12 **SECTION 23.** 185.983 (1) (a) of the statutes is amended to read:

13 185.983 (1) (a) File with the commissioner of insurance a declaration defining
14 the organization and operation of the plan, all printed literature, and specimen
15 copies of all proposed contracts of insurance with persons covered and with
16 participating physicians ~~and~~ ^{↓ ↗} hospitals, [→] and other providers, including all amendments thereto. The form
17 of all such contracts and amendments shall be subject to approval by the
18 commissioner of insurance but the commissioner may not withhold approval if the
19 form of ~~such~~ the contracts or changes ~~therein~~ in the contracts comply with the
20 provisions of ss. 185.981 to 185.985. ✓

***NOTE: Should "participating physicians and hospitals" be changed to
"participating physicians and other health care providers and hospitals" or "participating
health care providers and hospitals" or is the limitation to physicians okay?

21 **SECTION 24.** 185.983 (1m) of the statutes is amended to read:

1 185.983 (1m) In addition to ss. 601.04, 601.31, 632.79, and 632.895 (5), the
2 commissioner of insurance may by rule subject a medicare supplement policy, as
3 defined in s. 600.03 (28r), a medicare replacement policy, as defined in s. 600.03 (28p),
4 or a long-term care insurance policy, as defined in s. 600.03 (28g), that is sold by a
5 ~~voluntary nonprofit sickness health care plan~~ ^{cooperative} ^{association organized under} to other provisions of chs. 600 to 646,
6 except that the commissioner may not subject a medicare supplement policy, a
7 medicare replacement policy, or a long-term care insurance policy to s. 632.895 (8). ✓

****NOTE: Should the reference to "voluntary nonprofit health care plan" instead be to "cooperative association organized under s. 185.981"? I don't think the plan does the selling.

8 **SECTION 25.** 185.983 (2) of the statutes is amended to read:

9 185.983 (2) Every such voluntary nonprofit health care plan operated by a
10 cooperative association organized under s. 185.981 shall make provision for a
11 minimum of one physician and surgeon, or dentist to each 2,000 persons covered for
12 medical or dental care and a minimum of 6 hospital beds for each 2,000 persons
13 covered for hospital care. ✓

14 **SECTION 26.** 185.985 of the statutes is amended to read:

15 **185.985 Inconsistent provisions of the statutes.** Sickness Health care or
16 hospital plans operated by cooperative associations organized under this chapter
17 shall be operated exclusively under the provisions of ss. 185.981 to 185.985. Other
18 provisions of the statutes that are inconsistent with any of such those provisions
19 shall not be applicable to cooperative associations or ~~sickness~~ health care plans
20 operated by cooperative associations ~~pursuant to~~ under this chapter. ✓

21 **SECTION 27.** 252.14 (1) (ar) 12. of the statutes is amended to read:

association

252.14 (1) (ar) 12. ~~An operational~~ cooperative sickness health care ~~plan~~
 organized under ~~ss. 185.981 to 185.985~~ that directly provides services through
 salaried employees in its own facility.✓

****NOTE: Is "operational cooperative health care plan" okay in this provision, or should the reference instead be to a "cooperative health care association (rather than plan) organized under s. 185.981," as it is in s. 71.45 (5), for example, or to a "cooperative association (rather than plan) organized under s. 185.981 that operates a health care plan," or to a "cooperative health care association organized under ss. 185.981 to 185.985 that operates a nonprofit health care plan," as in s. 655.002 (1) (f)? I think the entity, rather than the plan is being referred to, since it has its own "facility."

SECTION 28. 254.11 (13) of the statutes is amended to read:

254.11 (13) "Third-party payer" means a disability insurance policy that is required to provide coverage for a blood lead test under s. 632.895 (10) (a); a health maintenance organization or preferred provider plan under ch. 609; a health care coverage plan offered by the state under s. 40.51 (6); a self-insured health plan offered by a city or village under s. 66.0137 (4), a political subdivision under s. 66.0137 (4m), a town under s. 60.23 (25), a county under s. 59.52 (11) (c), or a school district under s. 120.13 (2) (b); or a sickness health care plan operated by a cooperative association under s. 185.981. → organized

SECTION 29. 632.86 (1) (a) of the statutes is amended to read:

632.86 (1) (a) "Disability insurance policy" has the meaning given in s. 632.895 (1) (a), except that the term does not include coverage under a health maintenance organization, as defined in s. 609.01 (2), a limited service health organization, as defined in s. 609.01 (3), a preferred provider plan, as defined in s. 609.01 (4), or a sickness health care plan operated by a cooperative association organized under ~~ss. 185.981 to 185.985.~~

SECTION 30. 655.002 (1) (f) of the statutes is amended to read:

1 655.002 (1) (f) A cooperative ~~sickness~~ health care association organized under
2 ~~ss. 185.981 to 185.985~~ that operates ~~a~~ nonprofit ~~sickness~~ health care ~~plan~~ plans in this
3 state and that directly provides services through salaried employees in its own
4 facility.✓

5 **SECTION 31. Effective date.**

6 (1) This act takes effect on January 1, 2010, or on the day after publication,
7 whichever is later.✓

8 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3593/1dn

PJK:|:....

nwn

Date

In very few cases is it actually necessary to use the plural form (plans) of a word, since under s. 990.001 (1), the singular includes the plural. However, I did make most of your requested changes, except where I thought the singular form fit better with the substantive meaning or was necessary, such as in s. 185.983 (1) (intro.).

Pamela J. Kahler
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3593/1dn
PJK:nwn:md

November 17, 2009

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Pamela J. Kahler
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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3593/2
PJK:nwn:md

Today

r m i s n w

(in 1-4)
very soon, please
(just needs to be updated
for veto of AB 273)

2009 BILL

Regen.

1 AN ACT *to repeal* 185.981 (4t), 185.981 (6) and 185.982 (3); and *to amend* 71.26
2 (1) (a), 71.45 (1) (a), 71.45 (5), 146.81 (1) (k), 146.997 (1) (d) 17., 155.01 (7),
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4 (5), 185.981 (7), 185.981 (8), 185.981 (9), 185.982 (1), 185.982 (2), 185.983 (1)
5 (intro.), 185.983 (1) (a), 185.983 (1m), 185.983 (2), 185.985, 252.14 (1) (ar) 12.,
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Under current law, associations may be organized on a cooperative nonprofit basis (cooperative associations) to establish and operate sickness care plans for their members through contracts with providers. This bill makes various changes to those provisions, including the following:

1. The bill changes the name of the plans that cooperative associations may establish and operate from "sickness care plans" to "health care plans."
2. The bill specifies that establishing and maintaining these plans may be the primary, as opposed to exclusive, purpose of the cooperative association.
3. Current law provides that cooperative associations may enter into contracts for services with physicians and surgeons, optometrists, chiropractors, and dentists. The bill allows contracts with other providers, too.

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4. The bill adds that nothing in the provisions pertaining to the purpose of the cooperative association as being primarily to establish and operate a health care plan precludes a cooperative association from owning an interest in other entities for improving member services or for investment.

5. Under current law, a cooperative association may not spend more than 5 percent of capital stock or membership fees on promotional expenses. The bill provides that this limit does not apply to a cooperative association operating a health care plan.

6. Current law prohibits a contract by or on behalf of a cooperative association from providing for the payment of cash or other material benefit to a subscriber or the subscriber's estate on account of death, illness, or injury. The bill eliminates this provision.

7. Under current law, a cooperative association may stipulate in a plan that it will pay a nonparticipating physician and surgeon, optometrist, chiropractor, or dentist outside of the cooperative association's normal territory for care rendered to a member or a member's covered dependent who needs the care when he or she is outside the cooperative association's territory in which the plan benefits are normally available. Under the bill, a cooperative association may stipulate in its plans that it will pay a nonparticipating physician and surgeon, optometrist, chiropractor, dentist, or other provider for health care rendered to a covered person, without limitation to being outside the association's normal territory.

8. Current law provides that a cooperative association may provide benefits only to its members. The bill allows a cooperative association to offer its services to nonmembers, too.

9. Finally, the bill makes various technical changes, such as conforming the language to current statutory drafting practice and eliminating redundant provisions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.26 (1) (a) of the statutes is amended to read:

2 71.26 (1) (a) *Certain corporations.* Income of corporations organized under ch.
3 185, except income of a cooperative ~~sickness~~ health care association organized under
4 s. 185.981, or of a service insurance corporation organized under ch. 613, that is
5 derived from a health maintenance organization as defined in s. 609.01 (2) or a
6 limited service health organization as defined in s. 609.01 (3), or operating under
7 subch. I of ch. 616 which are bona fide cooperatives operated without pecuniary profit

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1 to any shareholder or member, or operated on a cooperative plan pursuant to which
2 they determine and distribute their proceeds in substantial compliance with s.
3 185.45, and the income, except the unrelated business taxable income as defined in
4 section 512 of the internal revenue code and except income that is derived from a
5 health maintenance organization as defined in s. 609.01 (2) or a limited service
6 health organization as defined in s. 609.01 (3), of all religious, scientific, educational,
7 benevolent or other corporations or associations of individuals not organized or
8 conducted for pecuniary profit. This paragraph does not apply to the income of
9 savings banks, mutual loan corporations or savings and loan associations. This
10 paragraph does not apply to income that is realized from the sale of or purchase and
11 subsequent sale or redemption of lottery prizes if the winning tickets were originally
12 bought in this state. This paragraph applies to the income of credit unions except
13 to the income of any credit union that is derived from public deposits for any taxable
14 year in which the credit union is approved as a public depository under ch. 34 and
15 acts as a depository of state or local funds under s. 186.113 (20). For purposes of this
16 paragraph, the income of a credit union that is derived from public deposits is the
17 product of the credit union's gross annual income for the taxable year multiplied by
18 a fraction, the numerator of which is the average monthly balance of public deposits
19 in the credit union during the taxable year, and the denominator of which is the
20 average monthly balance of all deposits in the credit union during the taxable year.

21 **SECTION 2.** 71.45 (1) (a) of the statutes is amended to read:

22 71.45 (1) (a) Income of insurers exempt from federal income taxation pursuant
23 to section 501 (c) (15) of the internal revenue code, town mutuals organized under or
24 subject to ch. 612, foreign insurers, and domestic insurers engaged exclusively in life
25 insurance business, domestic insurers insuring against financial loss by reason of

BILL**SECTION 2**

1 nonpayment of principal, interest and other sums agreed to be paid under the terms
2 of any note or bond or other evidence of indebtedness secured by a mortgage, deed
3 of trust or other instrument constituting a lien or charge on real estate and
4 corporations organized under ch. 185, but not including income of cooperative
5 ~~sickness~~ health care associations organized under s. 185.981, or of a service
6 insurance corporation organized under ch. 613, that is derived from a health
7 maintenance organization as defined in s. 609.01 (2) or a limited service health
8 organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which
9 are bona fide cooperatives operated without pecuniary profit to any shareholder or
10 member, or operated on a cooperative plan pursuant to which they determine and
11 distribute their proceeds in substantial compliance with s. 185.45. This paragraph
12 does not apply to income that is realized from the sale of or purchase and subsequent
13 sale or redemption of lottery prizes if the winning tickets were originally bought in
14 this state.

15 **SECTION 3.** 71.45 (5) of the statutes is amended to read:

16 71.45 (5) **EXCEPTIONS.** The net income of a cooperative ~~sickness~~ health care
17 association organized under s. 185.981, or of a service insurance corporation
18 organized under ch. 613, that is derived from a health maintenance organization, as
19 defined in s. 609.01 (2), or a limited service health organization, as defined in s.
20 609.01 (3), is the net income that would be determined if the cooperative ~~sickness~~
21 health care association or service insurance corporation were subject to federal
22 income taxation and as if that income were that of an insurance company.

23 **SECTION 4.** 146.81 (1) (k) of the statutes is amended to read:

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1 146.81 (1) (k) ~~An operational~~ A cooperative sickness health care plan
2 association organized under ss. s. 185.981 ~~to 185.985~~ that directly provides services
3 through salaried employees in its own facility.

4 **SECTION 5.** 146.997 (1) (d) 17. of the statutes is amended to read:

5 146.997 (1) (d) 17. ~~An operational~~ A cooperative sickness health care plan
6 association organized under ss. s. 185.981 ~~to 185.985~~ that directly provides services
7 through salaried employees in its own facility.

8 **SECTION 6.** 155.01 (7) of the statutes is amended to read:

9 155.01 (7) "Health care provider" means a nurse licensed or permitted under
10 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
11 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical
12 therapist assistant, occupational therapist, or occupational therapy assistant
13 licensed under ch. 448, a person practicing Christian Science treatment, an
14 optometrist licensed under ch. 449, a psychologist licensed under ch. 455, a
15 partnership thereof, a corporation or limited liability company thereof that provides
16 health care services, ~~an operational~~ a cooperative sickness health care plan
17 association organized under ss. s. 185.981 ~~to 185.985~~ that directly provides services
18 through salaried employees in its own facility, or a home health agency, as defined
19 in s. 50.49 (1) (a).

20 **SECTION 7.** 185.09 of the statutes is amended to read:

21 **185.09 Promotion expense; limitation.** No cooperative funds may be used,
22 nor any stock issued, in payment of any promotion expenses in excess of 5 per cent
23 of the paid-up capital stock or membership fees. This section does not apply to a
24 cooperative association organized under s. 185.981.

25 **SECTION 8.** 185.981 (title) of the statutes is amended to read:

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1 **185.981 (title) Cooperative sickness health care.**

2 **SECTION 9.** 185.981 (1) of the statutes, as affected by 2009 Wisconsin Act ...

3 (Assembly Bill 273), is amended to read:

4 185.981 (1) Cooperative associations may be organized under this chapter
5 without capital stock, ~~exclusively~~ primarily to establish and operate in the state or
6 in any county or counties ~~therein a~~ in the state nonprofit ~~plan or plans or programs~~
7 for ~~sickness~~ health care, including hospital care, for their members ~~and~~, their
8 members' dependents, and others through contracts with physicians, medical
9 societies, chiropractors, optometrists, dentists, dental societies, hospitals,
10 podiatrists, and others. ✓

11 **SECTION 10.** 185.981 (2) of the statutes, as affected by 2009 Wisconsin Act ...

12 (Assembly Bill 273), is amended to read:

13 185.981 (2) ~~Such associations~~ A cooperative association organized under this
14 section shall operate only on a cooperative nonprofit basis and for the primary
15 purpose of establishing, maintaining, and operating a voluntary nonprofit health,
16 dental, or vision care plan or plans, or additional programs, or for constructing,
17 operating, and maintaining nonprofit hospitals or other facilities whereby ~~sickness~~
18 health care, including hospital, dental, or vision care, is provided ~~at the expense of~~
19 ~~such association, to its members or both, and to such other~~ persons or groups of
20 persons as ~~shall~~ who become subscribers to ~~such plan, the plans, subject to s. 185.982~~
21 (2), under contracts which will entitle each such subscriber to definite that provide
22 access to medical, surgical, chiropractic, vision, dental, or hospital care, other health
23 care services, appliances, and supplies, by physicians and surgeons licensed and
24 registered under ch. 448, podiatrists licensed under ch. 448, optometrists licensed
25 under ch. 449, chiropractors licensed under ch. 446 ~~and~~, dentists licensed under ch.

score comma

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1 447, and other health care providers in their offices, in hospitals, in other facilities,
2 and in the home. Nothing in this subsection precludes a cooperative association
3 organized under this section from owning an interest in other entities for enhancing
4 or improving member services or for investment or other purposes, as long as the
5 association's primary purpose remains as provided in this subsection.

6 SECTION 11. 185.981 (3) of the statutes, as affected by 2009 Wisconsin Act
7 (Assembly Bill 273), is amended to read:

8 185.981 (3) No cooperative association organized primarily for the purposes
9 provided in ss. 185.981 to 185.983 shall be prevented from contracting with any
10 hospital in this state for the rendition of such hospital care as is included within such
11 a plan the cooperative association's plans because such the hospital participates in
12 a plan of any other such plan cooperative association, or in a plan organized and
13 operated under ss. 148.03 and 613.80. No ^{plan}hospital may discriminate against any
14 physician and surgeon, chiropractor, ^{or}dentist, ^{or}podiatrist with respect to the use of
15 ^{score comma}such the hospital's facilities by reason of his or her participation in a ~~sickness~~ health
16 care plan of a cooperative.

17 SECTION 12. 185.981 (4) of the statutes, as affected by 2009 Wisconsin Act
18 (Assembly Bill 273), is amended to read:

19 185.981 (4) ~~No contract by or on behalf of any such~~ A cooperative association
20 ~~shall provide for the payment of any cash, indemnity or other material benefit by that~~
21 ~~association to the subscriber or the subscriber's estate on account of death, illness or~~
22 ~~injury, nor be in any way related to the payment of any such benefit by any other~~
23 ~~agency, but any such association may stipulate in its plan plans~~ that it will pay any
24 nonparticipating physician and surgeon, optometrist, chiropractor, dentist,
25 podiatrist, ^{or}hospital outside of its normal territory for ~~sickness or, or~~ other provider

BILL**SECTION 12**

1 ~~for hospital or other health care rendered to any covered member or a member's~~
2 ~~covered dependent person who is in need of the a plan's benefits of such plan when~~
3 ~~he or she is outside of the territory of such association in which the benefits of such~~
4 ~~plan are normally available. Any such plan plans may prescribe monetary~~
5 limitations with respect to ~~such extraterritorial~~ the benefits.✓

6 **SECTION 13.** 185.981 (4t) of the statutes, as affected by 2009 Wisconsin Act 28,
7 is repealed.

8 **SECTION 14.** 185.981 (5) of the statutes is amended to read:

9 185.981 (5) Every ~~such~~ cooperative association organized under this section is
10 a charitable and benevolent corporation.

11 **SECTION 15.** 185.981 (6) of the statutes is repealed.

12 **SECTION 16.** 185.981 (7) of the statutes is amended to read:

13 185.981 (7) Notwithstanding sub. (4) and s. ~~ss.~~ 185.982 (1) and 185.983 (1), a
14 ~~sickness~~ health care plan that is operated by a cooperative association and that
15 qualifies as a health maintenance organization, as defined in s. 609.01 (2), is subject
16 to s. 609.655.

17 **SECTION 17.** 185.981 (8) of the statutes is amended to read:

18 185.981 (8) ~~A sickness care plan operated by a cooperative association is~~
19 ~~subject to s. 632.895 (8).~~ Coverage by a health care plan operated by a cooperative
20 association that qualifies as a health maintenance organization, as defined in s.
21 609.01 (2), of mammograms under s. 632.895 (8) may be subject to any requirements
22 that the ~~sickness~~ health care plan imposes under s. 609.05 (2) and (3) on the coverage
23 of other health care services obtained by members and their dependents.

24 **SECTION 18.** 185.981 (9) of the statutes is amended to read:

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185.981 (9) ~~Every cooperative sickness care association organized under this section that provides coverage for dependent children of members shall provide coverage for adopted children and children placed for adoption, as required under s. 632.896. Coverage by a health care plan operated by a cooperative association that qualifies as a health maintenance organization, as defined in s. 609.01 (2), of health care services obtained by adopted children and children placed for adoption may be subject to any requirements that the sickness health care plan imposes under s. 609.05 (2) and (3) on the coverage of health care services obtained by other members and their dependents.~~

SECTION 19. 185.982 (1) of the statutes, as affected by 2009 Wisconsin Act

(Assembly Bill 273), is amended to read:

185.982 (1) No sickness health care plan or contract issued thereunder by such a cooperative association shall interfere with the manner or mode of the practice of medicine, optometry, chiropractic, ^{plain}dentistry, ^{or} podiatry, ^{score comma}the manner or mode of providing wellness or other services, the relationship of physician, chiropractor, optometrist, ^{or} dentist, ^{or} podiatrist, or other provider and patient, nor the responsibility of physician, chiropractor, optometrist, dentist, or podiatrist, or other provider to patient. ^{or} A plan ~~Plans~~ may require persons covered to utilize health care providers designated by the cooperative association. The cooperative association may provide health care services directly through providers who are employees of the cooperative association or through agreements with individual providers or groups of providers organized on a group practice or individual practice basis. ~~In making such agreements, no plan may refuse to provide coverage for vision care services or procedures provided by an optometrist licensed under ch. 449 within the scope of the~~

BILL**SECTION 19**

1 ~~practice of optometry, as defined in s. 449.01 (1), if the plan provides coverage for the~~
2 ~~same services or procedures when provided by another health care provider.~~ ✓

3 **SECTION 20.** 185.982 (2) of the statutes is amended to read:

4 185.982 (2) Any cooperative association operating ~~a~~ voluntary sickness health
5 care plan plans under the provisions of this chapter may pay physicians and
6 surgeons, optometrists, chiropractors ~~or~~ dentists, or other providers on a salary, per
7 person, or fee-for-service basis to provide sickness health care to members of such
8 the association. Every cooperative association ~~shall contract only with its own~~
9 ~~members for the benefits of any plan which it operates, but any~~ may offer its health
10 care services to nonmembers. Any cooperative association ~~which that~~ operates a
11 hospital may make the hospital's facilities ~~thereof~~ available to nonmembers and to
12 nonparticipating physicians, optometrists ~~or~~ dentists, or other providers.

13 **SECTION 21.** 185.982 (3) of the statutes is repealed.

14 **SECTION 22.** 185.983 (1) (intro.) of the statutes, as affected by 2009 Wisconsin
15 Act 28, is amended to read:

16 185.983 (1) (intro.) Every ~~such~~ voluntary nonprofit sickness health care plan
17 operated by a cooperative association organized under s. 185.981 shall be exempt
18 from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42,
19 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93, 631.95,
20 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853, 632.855,
21 632.87 (2), (2m), (3), (4), (5), and (6), 632.885, 632.895 (5) and ~~(9)~~ (8) to (17), 632.896,
22 and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
23 shall:

24 **SECTION 23.** 185.983 (1) (a) of the statutes is amended to read:

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1 185.983 (1) (a) File with the commissioner of insurance a declaration defining
2 the organization and operation of the plan, all printed literature, and specimen
3 copies of all proposed contracts of insurance with persons covered and with
4 participating physicians ~~and~~, hospitals, and other providers, including all
5 amendments thereto. The form of all such contracts and amendments shall be
6 subject to approval by the commissioner of insurance but the commissioner may not
7 withhold approval if the form of ~~such~~ the contracts or changes ~~therein~~ in the
8 contracts comply with the provisions of ss. 185.981 to 185.985.

9 **SECTION 24.** 185.983 (1m) of the statutes is amended to read:

10 185.983 (1m) In addition to ss. 601.04, 601.31, 632.79, and 632.895 (5), the
11 commissioner of insurance may by rule subject a medicare supplement policy, as
12 defined in s. 600.03 (28r), a medicare replacement policy, as defined in s. 600.03 (28p),
13 or a long-term care insurance policy, as defined in s. 600.03 (28g), that is sold by a
14 ~~voluntary nonprofit sickness cooperative health care plan association organized~~
15 under s. 185.981 to other provisions of chs. 600 to 646, except that the commissioner
16 may not subject a medicare supplement policy, a medicare replacement policy, or a
17 long-term care insurance policy to s. 632.895 (8).

18 **SECTION 25.** 185.983 (2) of the statutes is amended to read:

19 185.983 (2) Every ~~such~~ voluntary nonprofit health care plan operated by a
20 cooperative association organized under s. 185.981 shall make provision for a
21 minimum of one physician and surgeon, or dentist to each 2,000 persons covered for
22 medical or dental care and a minimum of 6 hospital beds for each 2,000 persons
23 covered for hospital care.

24 **SECTION 26.** 185.985 of the statutes is amended to read:

BILL**SECTION 26**

1 **185.985 Inconsistent provisions of the statutes.** ~~Sickness~~ Health care or
2 hospital plans operated by cooperative associations organized under this chapter
3 shall be operated exclusively under the provisions of ss. 185.981 to 185.985. Other
4 provisions of the statutes that are inconsistent with any of ~~such~~ those provisions
5 shall not be applicable to cooperative associations or ~~sickness~~ health care plans
6 operated by cooperative associations ~~pursuant to~~ under this chapter.

7 **SECTION 27.** 252.14 (1) (ar) 12. of the statutes is amended to read:

8 252.14 (1) (ar) 12. ~~An operational~~ A cooperative ~~sickness~~ health care ~~plan~~
9 association organized under ss. ~~s. 185.981 to 185.985~~ that directly provides services
10 through salaried employees in its own facility.

11 **SECTION 28.** 254.11 (13) of the statutes is amended to read:

12 254.11 (13) "Third-party payer" means a disability insurance policy that is
13 required to provide coverage for a blood lead test under s. 632.895 (10) (a); a health
14 maintenance organization or preferred provider plan under ch. 609; a health care
15 coverage plan offered by the state under s. 40.51 (6); a self-insured health plan
16 offered by a city or village under s. 66.0137 (4), a political subdivision under s.
17 66.0137 (4m), a town under s. 60.23 (25), a county under s. 59.52 (11) (c), or a school
18 district under s. 120.13 (2) (b); or a ~~sickness~~ health care plan operated by a
19 cooperative association organized under s. 185.981.

20 **SECTION 29.** 632.86 (1) (a) of the statutes is amended to read:

21 632.86 (1) (a) "Disability insurance policy" has the meaning given in s. 632.895
22 (1) (a), except that the term does not include coverage under a health maintenance
23 organization, as defined in s. 609.01 (2), a limited service health organization, as
24 defined in s. 609.01 (3), a preferred provider plan, as defined in s. 609.01 (4), or a

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1 ~~sickness health~~ care plan operated by a cooperative association organized under ss.
2 ~~s. 185.981 to 185.985.~~

3 **SECTION 30.** 655.002 (1) (f) of the statutes is amended to read:

4 655.002 (1) (f) A cooperative ~~sickness~~ health care association organized under
5 ~~ss. s. 185.981 to 185.985~~ that operates ~~a~~ nonprofit ~~sickness~~ health care ~~plan plans~~
6 in this state and that directly provides services through salaried employees in its own
7 facility.

8 **SECTION 31. Effective date.**

9 (1) This act takes effect on January 1, 2010, or on the day after publication,
10 whichever is later.

11 (END)

Basford, Sarah

From: Becker, Kelly
Sent: Monday, January 04, 2010 2:18 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-3593/2 Topic: Modifications to coop sickness care plan provisions

Please Jacket LRB 09-3593/2 for the SENATE.